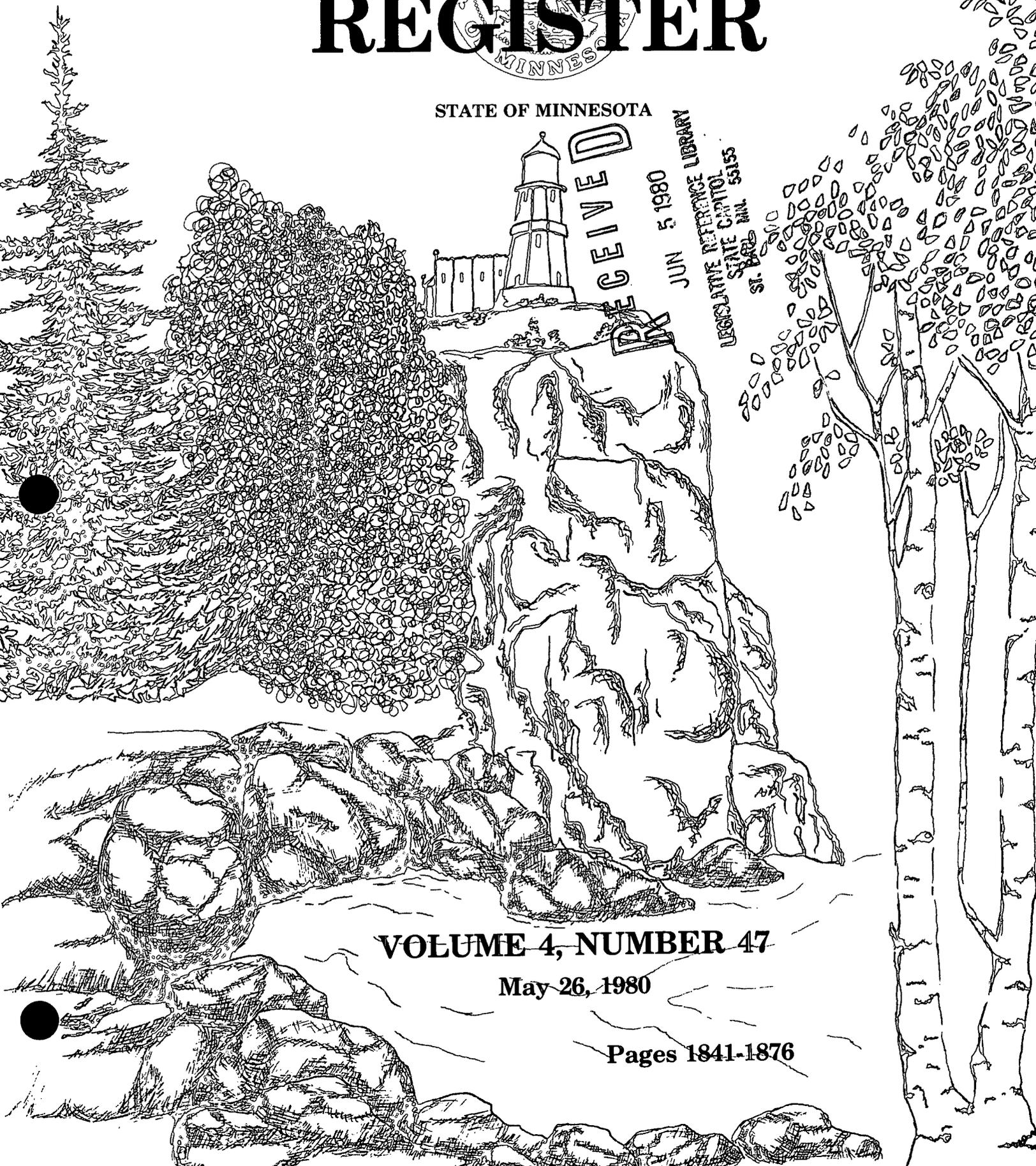


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STATE REGISTER

STATE OF MINNESOTA



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VOLUME 4, NUMBER 47

May 26, 1980

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Volume 4 Printing Schedule for Agencies

Table with 4 columns: Issue Number, Submission deadline for Executive Orders, Rules and Proposed Rules, Submission deadline for State Contract Notices and Official Notices, Issue Date. Includes SCHEDULE FOR VOLUME 4 with rows for issues 48-51.

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders...

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The State Register is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the State Register.

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The **PROPOSED RULES** section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR **AMENDMENTS AND ADDITIONS** list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the MCAR.

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EXECUTIVE ORDERS

Executive Order No. 80-6

Provision for the Establishment of A Governor's Task Force on Highways for Economic Vitality

I, ALBERT H. QUIE, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, including but not limited to, Minnesota Statutes § 15.0593, do hereby issue this Executive Order:

WHEREAS, the state's business, agricultural, and recreational economy is dependent on highway transportation; and

WHEREAS, it is desired to determine the long-range (6-10 year) highway needs of Minnesota necessary to assure the vitality of the State's economy;

NOW, THEREFORE, I ORDER:

1. The establishment of the Governor's Task Force on Highways for Economic Vitality pursuant to Minnesota Statutes § 15.0593 and other applicable state statutes. It is intended that the Task Force consist of highway users other than persons whose primary business is highway design, highway construction, and highway transportation services. The latter groups may provide information to the Task Force.

a. The Task Force shall consist of 15 members and shall be composed of:

1. Two officials of labor unions representing employees in an industry relying on highway transportation in Minnesota.

2. Two officials from manufacturing, wholesale or retail businesses relying on highway transportation in Minnesota.

3. Two persons involved in agricultural production in Minnesota.

4. Two persons involved in recreational enterprise or promotion in Minnesota.

5. Three residents of Minnesota that have interests in highway transportation.

6. Four Minnesota legislators with bi-partisan distribution.

EXECUTIVE ORDERS

- b. The members shall be appointed by the Governor pursuant to Minnesota Statutes § 15.0597.
 - c. The Governor shall appoint one of the members as chairman.
 - d. The Task Force shall begin its work by July 1, 1980 and shall complete its report by January 1, 1981. Terms of the members shall expire June 30, 1982.
 - e. Per diem shall not be paid to members. Expenses shall be reimbursed by the Department of Economic Development.
2. That the Commissioner of Economic Development, Commissioner of Agriculture, Commissioner of Transportation, Director of the State Planning Agency, the Chairman of the Metropolitan Council, and the Chairmen of the Regional Development Commission provide staff assistance as requested by the Task Force.
3. That the responsibility of the Task Force is to provide the following information to the Governor and the Legislature.
- a. Recommendations regarding long range (6-10 years) highway needs to assure economic vitality of the State's economy.
 - b. An estimate of the funding necessary to satisfy the identified needs.
 - c. A prioritization of highway objectives (i.e., safety, maintenance, capacity, response to economic development, etc.).
 - d. Recommendation for improved resource (people and dollars) utilization.
 - e. Recommend alternative funding sources.
 - f. A strategy for implementation.

Pursuant to Minnesota Statutes § 4.035 (1980), this Order shall be effective fifteen (15) days after filing with the Secretary of State and publication in the *State Register* and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minnesota Statutes §§ 4.035 or 15.0593.

IN TESTIMONY WHEREOF I have hereunto set my hand this 2nd day of May, 1980.



PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Housing Finance Agency Proposed Temporary Rule Governing the Energy Efficient Housing Demonstration Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rule for the purpose of implementing the provisions of Chapter Eleven A: 12 MCAR §§ 3.136 to 3.139, Energy Efficient Housing Demonstration Program.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Al Hans, Director of Finance, Minnesota Housing Finance Agency, Suite 200 Nalpak Building, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule.

May 12, 1980

Temporary Rules as Proposed

Chapter Eleven A: Energy Efficient Housing Demonstration Program

12 MCAR § 3.136 Definition. For the purpose of Energy Efficient Housing Demonstration Program Loans, "Persons and Families of Low and Moderate Income" means those persons and families whose Adjusted Income does not exceed \$22,500 in the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2 and \$20,000 for the remainder of the state.

12 MCAR § 3.137 Eligible recipients of Energy Efficient Housing Demonstration Program Loans. To qualify for a Energy Efficient Housing Demonstration Program loan, a recipient must satisfy the requirements of 12 MCAR § 3.036 for a Limited-Unit Development Mortgage Loan. No recipient shall have held any ownership interest (either under fee title or by contract for deed) in any residential dwelling within two years prior to the date of the application for the Energy Efficient Housing Demonstration Program loan.

Public Hearings on Agency Rules May 28-June 5, 1980

Date	Agency and Rule Matter	Time & Place
June 5	Livestock Sanitary Board Control of Pseudorabies Hearing Examiner: Richard Luis	9:30 a.m., Room D, Veterans Service Bldg., 20 W. 12th Street, St. Paul, MN
June 5	MN State Retirement System Deferred Compensation Plan Hearing Examiner: George Beck	9:00 a.m., Room 300, Hearing Examiners Office, 1745 University Ave., St. Paul, MN 55104

12 MCAR § 3.139 Construction loans. The agency may make loans for the construction of homes to be purchased by recipients of an Energy Efficient Housing Demonstration Program loan subject to the following terms:

A. A loan may be made to a builder upon a determination that such loan is necessary in order to permit the construction of a model home by a builder participating in the program.

B. The construction loan borrower need not be a person or family of low or moderate income.

C. The construction loan borrower shall agree to abide by the requirements of this chapter relating to the construction, specifications, sale, and mortgage of the home to be constructed with such loan.

D. The agency may withhold such part of the construction loan as is necessary to assure completion of the home.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike-outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has

been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Economic Security Office of Economic Opportunity Adopted Temporary Rule Governing Emergency Residential Heating Grants

Request for Public Comment

Notice is hereby given by the Department of Economic Security that the following temporary rule has been adopted and approved pursuant to the provisions of Laws of 1980, ch. 579, § 22. All interested persons may comment in writing on these rules to:

Beverly Gleeson, Director
Office of Economic Opportunity
Minnesota Department of Economic Security
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Temporary Rule as Adopted

8 MCAR § 4.4012 Emergency residential heating grants for low income people.

A. Policy.

1. The purpose of the rule is to develop and deliver a state emergency residential heating assistance program under the authority granted by Laws of 1980, ch. 579 to supplement the federal Energy Crisis Assistance Program of 42 USC § 2809, paragraph (a), clause (5), at prescribed income levels of low income persons not assisted under the federal program, in order to aid those persons in relieving part of the energy/fuel cost burden.

2. This program does not entitle any household to a certain amount and/or any form of assistance.

B. Definitions. As used in this rule.

1. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security or his/her designated representative.

2. "Community Action Agency" is a private non-profit corporation or public agency established pursuant to the Economic Opportunity Act of 1964 Pub. L. 88-452 as amended which is authorized to administer funds received from federal, state, local or private funding sources and to assess, design, operate, finance and oversee anti-poverty programs.

3. "DES/OEO" means the Department of Economic Security, Office of Economic Opportunity.

4. "Director" means the director of "DES/OEO."

5. "Earned income" is salary or wages received for work performed as an employee or income from a business, farm or other enterprise in which a person is engaged on his/her own account. Social Security benefits are not considered earned income.

6. "Elderly household" means a household headed by a person who is 60 years of age or older.

7. "Eligible household" means any household, whether owning or renting their dwelling, which a grantee has determined to be eligible for assistance. Eligibility is based on total annualized household income during not more than 12 months or less than the 90-day period preceding the request for assistance.

8. "Energy Crisis Assistance Program" or "ECAP" is the federally funded energy assistance program of 42 USC § 2809, paragraph (a), clause (5).

9. "Grant" means the approved written agreement entered into between the grantee and the state.

10. "Grantee" means an entity named in the Notification of Grant Award as the recipient.

11. "Handicapped person" means any individual (a) who is handicapped as defined in section 7(6) of the Rehabilitation Act of 1973, (b) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (c) who is receiving benefits under chapter 11 or 15 of Title 38, United States Code.

12. "Head of a household" is a member of the household who by consensus of the household is considered its head.

13. "Household" refers to the persons related by blood, adoption, or marriage living in a dwelling and forming an economic unit. Other persons residing in the dwelling and contributing to its welfare are also considered household members for the purpose of determining household income.

14. "Law" means Chapter 579, Laws of 1980.

15. "Local administering agency" means a county board, community action agency, or a public or private non-profit agency which has been granted funds in accordance with this rule.

16. "Medical expenses" are those health-related costs that are not reimbursed by insurance or other sources and that exceed 3% of the household income. Payments by a member of a household to a nursing home for residential care are considered a medical expense.

17. "State" hereinafter means the State of Minnesota acting through DES/OEO.

18. "Vendor" means a supplier of goods or services.

19. "Working poor" are those eligible households which receive earned income.

C. Local administrating agencies.

1. In order to be granted an award a local administering agency must be a county board, community action agency or a public or private non-profit agency and must have:

a. Experience in operating programs that serve the poor.

b. The ability to carry out or arrange for the outreach activities outlined in the Instruction for Delivery of the Emergency Residential Heating Grants Program.

c. An adequate accounting system with appropriate fiscal controls as defined in the following:

(1) Federal Management Circular 74-4, 34 CFR 225.

(2) U.S. OMB Circular A-102.

(3) U.S. Treasury Circular 1082.

(4) U.S. Treasury Circular 1075.

2. Allocations to local administrative agencies will be made on the basis of the number of income eligible households in the area served by the agency. Unexpended funds in one grantee area may be reallocated to another area of the state by State.

3. All grants shall be evidenced by written agreement under which the grantee shall agree to comply with the provisions of the law, this rule, and such other matters as may be deemed appropriate for the effective administration of the grant.

D. Serving clients.

1. Local delivery agencies will identify potential participants through their existing programs and through cooperation with other area human service providers. Other linkages will combine with the above to form decentralized intake and certification systems.

2. Grantees are required to publicize in an attempt to inform all eligible households of the availability of Emergency Residential Heating Assistance.

3. All residents of Minnesota may apply for this program. Assistance will be obligated for certified eligible applications on a priority system to the extent that program funds are available within any grantee area. Grantees must give priority to elderly, handicapped, and working poor households.

4. Grantees must have and publicize to all applicants procedures for review of the partial or complete denial of assistance under this program.

E. Forms of assistance.

1. Assistance made available under this program must be directed to the payment of past-due energy bills if past due bills exist.

2. Households which have paid their heating costs and households supplying their own heating source will also be assisted:

a. Payment of energy related bills may be made through the establishment of a line of credit or a voucher system.

b. Immediate, short-term supportive services may be provided.

c. Direct cash assistance may be made in those cases where a person has paid a fuel bill and is in crisis or to implement one of the allowable activities of the program. This amount shall not exceed a total of \$50 per household for the entire duration of the program.

F. Eligibility.

1. Emergency residential heating grants may be paid only to households not eligible for the federal Energy Crisis Assistance Program and whose total annualized household income does not exceed the following limits:

Size of household	Not more than
1	\$ 5,100
2	\$ 6,750
3	\$ 8,400
4	\$10,050
5	\$11,700
6	\$13,350

(For each additional household member add \$1,650).

2. In determining total household income, a household with earned income may deduct from earned income State and federal income taxes and social security contributions. In addition, a household may deduct medical expenses that are not reimbursed by insurance or other sources that exceed three percent of the household income.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike-outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

ADOPTED RULES

3. Proof of income must be supplied. The period for determining eligibility will be not more than 12 months nor less than the 90-day period preceding the request for assistance. Grantees may follow their normal procedure to verify income eligibility, and will be required to randomly verify a reasonable number of applicants who sign declarations of income. Farm income and income from self employment may be verified by 1979 Income Tax Return Forms.

4. Payments under this program shall not be considered as income or resources under any other public or publicly assisted income tested program.

G. Limitation on payments.

1. The maximum amount of assistance to eligible households shall be fifty percent of the cost of residential primary heating costs paid by the household during the heating season beginning September 1, 1979 and ending May 31, 1980 or the appropriate maximum amount as defined in the following table, whichever is less:

Household size	Household more than but	Income not More than	Fuel Oil Canadian Natural Gas and Propane	Wood and Other Energy Sources
1		\$ 4,250	\$400	\$267
	\$ 4,250	\$ 4,675	\$283	\$189
	\$ 4,675	\$ 5,100	\$167	\$111
2		\$ 5,625	\$400	\$267
	\$ 5,625	\$ 6,188	\$283	\$189
	\$ 6,188	\$ 6,750	\$167	\$111
3		\$ 7,000	\$400	\$267
	\$ 7,000	\$ 7,700	\$283	\$189
	\$ 7,700	\$ 8,400	\$157	\$111
4		\$ 8,375	\$400	\$267
	\$ 8,375	\$ 9,212	\$283	\$189
	\$ 9,212	\$10,050	\$167	\$111
5		\$ 9,750	\$400	\$267
	\$ 9,750	\$10,725	\$283	\$189
	\$10,725	\$11,700	\$167	\$111
		\$11,125	\$400	\$267
6	\$11,125	\$12,238	\$283	\$189
	\$12,238	\$13,350	\$167	\$111

2. Grants for recipients who use two or more types of fuel shall be based on the household's primary energy source.

3. Households which received federal Energy Crisis Assistance Program funds will not be eligible for assistance under this program. Recipients of Supplemental Security Income (SSI) who were ineligible for ECAP funds are eligible for

assistance under this program but the direct SSI fuel payment received by that household must be deducted from the amount of assistance.

H. Coordination with vendors. Vendor agreements developed and executed for ECAP will be considered as an agreement also covering this program. Any new vendors secured for this program are required to enter into a written agreement.

I. Termination of the program. Each grant will terminate on September 30, 1980 with any remaining balances returned to the state.

J. Program costs.

1. Grantees may expend up to 5% of their total allocation on administrative costs. If the grantee incurs expenditures in excess of its total allocation, the amount of the over-expenditure must be absorbed by the grantee.

2. Two percent of the total state appropriation will be used for administrative costs including audit at the state level by DES/OEO.

K. Reporting.

1. Grantees shall report bi-weekly to the state through the close of the program in the five areas currently required by regulation for ECAP (number of households served, number of individuals served, elderly headed households served, dollars obligated for fuel/heating costs, and dollars obligated for other purposes). A final report will be required which will include a summary of information collected through the required program application and worksheet. An invoice will be required from grantees as frequently as is necessary to receive funds under this program.

L. Monitoring and audit.

1. The Office of Economic Opportunity will monitor the delivery of this program at the local level.

2. Charges related to poor administration, faulty or inadequate eligibility certification, duplication and/or fraud will be investigated immediately by the Office of Economic Opportunity with a one week requirement on correction and/or restitution. Failure to rectify the problem may result in withdrawal of the grantee contract and/or criminal charges.

3. An accounting firm will be contracted by the state to perform audits on grantees. The legislative auditor will approve the selection of the auditors and the scope of the audit.

4. Grantees shall fully cooperate with the monitoring and audit process.

M. Severability. The provisions of this rule shall be severable and if any phrase, clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability thereof to any person or circumstances shall not be affected thereby.

Department of Employee Relations Social Security Retirement Division

Adopted Rule Relating to Depositing of Social Security Contributions

The rule proposed and published at *State Register*, Volume 4, Number 26, pp. 1071-1076, December 31, 1979 (4 S.R. 1071), is adopted as proposed, approved by the Attorney General and filed with the Secretary of State on May 1, 1980.

Department of Health Health Systems Division Emergency Medical Services Section

Adopted Rules Relating to Life Support Transportation Services

The proposed rules (7 MCAR § 1.601 *et seq.*) published at *State Register*, Volume 4, Number 25, pp. 1003-1017, December 24, 1979 (4 S.R. 1003) were adopted on April 21, 1980, approved by the Attorney General on May 9, 1980, and filed with the Secretary of State on May 9, 1980, with the following amendments. (Copies of the full text of the adopted rules are available from the Documents Division of the Department of Administration, and from the Department of Health):

Amendments as Adopted

7 MCAR § 1.601 K. ~~“Credentialed” means registered by the Commissioner pursuant to Minn. Stat. § 214.13.~~ **K.** “Disaster” means a sudden occurrence or other temporary condition determined to have resulted or to be likely to result in such widespread damage and such mass casualties or threats to the health and safety of members of the public that available life support transportation services cannot reasonably be considered adequate to respond to the emergency needs of the affected public.

N.1. providing advice on training and orientation ~~of~~ of personnel,

7 MCAR § 1.602 Applications for licensure.

A.1.c. the names, addresses, and telephone numbers of the following:

(1) the medical advisor or medical director of the service, and

(2) the name of the base hospital or affiliated medical facility, if any, for the service;

A.1.n.(1) revenue or income (actual and in-kind),

(4) expenses (real actual and in-kind imputed) by category;

o. ~~(2) description of staff turnover, and~~

~~(2)(3)~~ names and addresses of key personnel;

~~2.~~ Applicants shall also furnish such other information that may be needed by the commissioner to clarify incomplete or ambiguous information presented in the application.

~~3.~~ Applicants shall furnish or retain in file documentation of all statements made in application for licensure.

~~B.1.f.2.~~ Applicants shall also furnish such other information that may be needed by the commissioner to clarify incomplete or ambiguous information presented in the application.

7 MCAR § 1.603 Standards for operation of basic life support transportation services.

A.1.a.(1) possesses a current ~~advanced~~ advanced American Red Cross advanced first aid certificate; or

(2) possesses a current emergency care certificate issued by the commissioner pursuant to Minn. Stat. § 214.13; or

A.2.b. By July 1, 1985, each licensee shall have a physician medical advisor ~~director~~ responsible for at least:

(1) providing advice on training and orientation ~~of~~ of personnel;

c. The name and address of the medical advisor ~~director~~ and a written statement signed by the medical advisor ~~director~~ indicating his or her acceptance of the responsibilities as specified in 7 MCAR § 1.603 A.2.b. shall be maintained in the files of the licensee.

d. If a life support transportation service finds it impossible to arrange for an attendant to accompany ~~the~~ a driver, in responding to a medical emergency, the driver may respond proceed to an emergency call the site of the emergency and transport the patient to a health care facility without an accompanying attendant, provided that the service shall:

(2) document ~~why~~ each case in which it was impossible to arrange for an attendant to be present at the site of the emergency and to accompany the driver during transport of the patient and (such documentation shall include an explana-

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Department of Employee Relations Social Security Retirement Division

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Department of Health Health Systems Division Emergency Medical Services Section

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Amendments as Adopted

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N.1. providing advice on training and orientation ~~of~~ of personnel,

7 MCAR § 1.602 Applications for licensure.

A.1.c. the names, addresses, and telephone numbers of the following:

(1) the medical advisor or medical director of the service, and

(2) the name of the base hospital or affiliated medical facility, if any, for the service;

A.1.n.(1) revenue or income (actual and in-kind),

(4) expenses (real actual and in-kind imputed) by category;

o. ~~(2) description of staff turnover, and~~

~~(2)(3) names and addresses of key personnel;~~

2. ~~of~~ Applicants shall also furnish such other information that may be needed by the commissioner to clarify incomplete or ambiguous information presented in the application.

3. ~~2.~~ Applicants shall furnish or retain in file documentation of all statements made in application for licensure.

B.1.f.2. Applicants shall also furnish such other information that may be needed by the commissioner to clarify incomplete or ambiguous information presented in the application.

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A.1.a.(1) possesses a current ~~advanced~~ advanced American Red Cross first aid certificate; or

(2) possesses a current emergency care certificate issued by the commissioner pursuant to Minn. Stat. § 214.13; or

A.2.b. By July 1, 1985, each licensee shall have a physician medical advisor ~~director~~ responsible for at least:

(1) providing advice on training and orientation ~~of~~ of personnel;

c. The name and address of the medical advisor ~~director~~ and a written statement signed by the medical advisor ~~director~~ indicating his or her acceptance of the responsibilities as specified in 7 MCAR § 1.603 A.2.b. shall be maintained in the files of the licensee.

d. If a life support transportation service finds it impossible to arrange for an attendant to accompany ~~the~~ a driver; in responding to a medical emergency, the driver may respond proceed to an emergency call the site of the emergency and transport the patient to a health care facility without an accompanying attendant, provided that the service shall:

(2) document ~~why~~ each case in which it was impossible to arrange for an attendant to be present at the site of the emergency and to accompany the driver during transport of the patient and (such documentation shall include an explana-

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ADOPTED RULES

tion of what reasonable efforts were made to arrange for an attendant to be present); and

(3) maintain such documentation in the its files of the licensee.

B.1.a.(1)(a) one hinged half ring lower-extremity splint or one traction splint; with ankle harness for fractures of the femur;

(b) two fixation splints each for fractures of the leg or arm; both legs and both arms;

(c) one short and one long backboard with fixation straps; or one neck splint with fixation straps and one full spine splint with head immobilization gear and patient fixation straps;

(2)(a)(vi) one each of infant, child and adult masks for administration of oxygen; at a concentration of at least 40%; and

(c) one each clear-domed mask for infant, child and adult patients with a 15/22 mm adapter and oxygen inlet port for mouth-to-mask or mechanical-device mask ventilation; or one each of infant, child and adult masks with hand-operated bag mask resuscitation units; or an oxygen-powered manually cycled valve connected to an oxygen source capable of delivering a minimum of 30 minutes oxygen supply at 15 liters per minute; or one bag valve mask that shall:

(i) have an inlet port for connection to the oxygen source tubing;

(ii) be capable of flow rates of 15 liters per minute without malfunctioning;

(iii) be capable of 80% inspired oxygen concentration to the patient at a flow rate of 12 liters per minute from the oxygen source; and

(iv) have a transparent dome so as to allow visualization of the airway.

(d)(ii) be capable of producing a vacuum of 150 mmHg with an air flow rate of 15 liters per minute for a period of at least five minutes (if the power source is oxygen, this requirement shall be in addition to the time requirement for the administration of oxygen to the patient); and

(e) one each of oropharyngeal airways in adult, child and infant sizes; and

(f) seizure sticks;

(3)(d) six soft rolled bandages, approximately six inches wide and five yards long; and

(e) twelve triangular bandages; and

(e) (f) bandage shears;

(6)(b) one sphygmomanometer with cuff(s) for use with child and adult patients;

(9)(a) one stretcher 72 to 84 inches long and 18 to 24 inches wide;

(b) (a) two sheets, two blankets, and one pillow;

(c) (b) emesis container;

(d) (e) one flashlight; and

(e) (d) one fire extinguisher, five-pound dry-chemical type with A:B:C rating.

B.1.b. Inflatable anti-shock trousers may be carried and used by BLS services only if:

(1) all attendants and drivers have been trained in their use;

(2) use of such equipment has been authorized by the medical advisor; and

(3) documentation of (1) and (2) is retained in the licensee's files.

c. b. All equipment carried by an ambulance shall be stored so that the patient, attendant and/or driver are not injured or otherwise interfered with in the event of sudden stop or movement of the ambulance during transport.

d. e. All equipment required by 7 MCAR § 1.603 B.1.a. shall be permanently stored and kept on or in the ambulance unless otherwise provided for in 7 MCAR § 1.603 B.2.

2.a. Air ambulances licensed to provide basic life support transportation service shall carry all equipment listed in 7 MCAR § 1.603 B.1.a. with the exception of the equipment in 7 MCAR § 1.603 B.1.a.(8); and (9)(e).

3.g. Procedures for the period performance testing of mechanical equipment listed in 7 MCAR § 1.603 B.1.a.(2) and (6)(b) shall be developed, maintained and followed; and records of such performance testing shall be kept in the licensee's files.

C.1.a.(1) the size of the patient compartment shall be a minimum of 116 inches long and 69 inches wide (wall to wall) and shall be 54 inches high (floor to ceiling); and shall provide in width:

(a) not less than 69 inches (wall to wall); or

(b) attendant walkway and kneeling space that shall consist of:

(i) not less than 12 inches of clear walkway between stretcher, and fixed bench and between stretchers, and

(ii) not less than 25 inches width and 9 inches height of kneeling space for attendants along the right-hand side of the half of the primary stretcher, measured at floor level from the forward right-hand corner of the primary stretcher;

(5) environmental equipment shall include a heater for the patient compartment that shall have a minimum output of 21,000 BTUs; and

(6) markings on the ambulance shall include identification of the type of service the ambulance is licensed to provide in letters three inches or larger on the sides of the ambulance;

(6) (7) The ambulance shall:

C.1.b.(5) design and operation of environmental equipment to allow for proper heating; and

~~(6) design, contents and location of markings on the ambulance to allow for easy and correct identification by the public; and~~

(6) ~~(7)~~ design, operation and suspension to allow for safe and stable transport.

C.3.a. Ambulances other than land or air ambulances shall substantially comply with 7 MCAR § 1.603 C.1.a. as determined by the commissioner according to the considerations set forth in 7 MCAR § 1.603 C.1.c.(1) ~~(7)~~(6).

C.4.a. All ambulances shall be equipped with restraining devices for the ~~ext~~ stretcher and all seating places in the patient compartment for patient and attendant.

C.5.c. If an ambulance has been used to transport a patient ~~that~~ who is known or should be known by the attendant or driver to have a contagious disease (other than a common cold) liable to be transmitted from person to person through exposure or contact), surfaces in the interior of the ambulance and surfaces of equipment that come in contact with such patient shall, immediately after each use, be cleaned so as to be free from dirt, grease and other offensive matter and be disinfected so as to prevent the presence of a level of microbiologic agents injurious to health.

D.2.b. Each BLS service shall have the capability of using a communications base that has a two-way VHF base radio, with CTCSS, capable of operating on at least two VHF high-band r-f channels.

D.2.c. Ambulances and their communications bases shall use Channel One of the mobile and base radios as the main operating channel for ~~routine~~ medical communications as provided in 7 MCAR § 1.603 D.2.d. and shall use Channel Two for statewide communications.

D.2.d.(8) Metropolitan district (Anoka, Hennepin, Ramsey, Washington, Carver, Scott and Dakota Counties) shall have Channel One r-f of 155.325 MHz. ~~or shall comply with 7 MCAR § 1.604 D.2.a. e.~~

7 MCAR § 1.604 Standards for operation of advanced life support transportation services.

A.1.a.(1) is ~~eredentialed~~ registered by the commissioner pursuant to Minn. Stat. § 214.13 to provide paramedic services; or

A.1.b.(1) possesses a current emergency care certificate issued by the commissioner pursuant to ~~section~~ Minn. Stat. § 214.13; or

A.2.b. A practical examination for attendants of ALS ambulances shall test for competency in the subject areas identified below in order to be approved by the commissioner:

A.3.a.(2) successful completion every year of a course in CPR; up to four hours of a course of such instruction, if successfully completed, may be applied as partial fulfillment of the 48 hours required every two years; ~~and~~

(3) successful completion every two years of instruction in advanced cardiac life support; up to sixteen hours of a course or such instruction, if successfully completed, may be applied as partial fulfillment of the 48 hours required every two years; ~~and~~

(4) retention of the competencies listed in 7 MCAR § 1.604 A.2.b.(1)-(5) as documented in a statement of satisfaction by the medical director.

A.4. Issuance of certificates.

a. Persons successfully completing the written and practical examinations approved by the commissioner pursuant to 7 MCAR § 1.604 A.2. shall be issued a certificate by the commissioner or a designated representative.

b. The certificate shall remain valid for two years from the date of issuance. The certificate may be renewed after each successful completion of the continuing education requirements specified in 7 MCAR § 1.604 A.3. and only for periods of two years.

5. ~~4-~~ Staffing requirements.

6. ~~5-~~ Operational requirement. An attendant shall be in the patient compartment while transporting a patient or patients except as allowed by Minn. Stat. § 144.804, subd. 2.

~~D.2.a. Ambulances and their communications bases that operate telemetry shall have, as a minimum:~~

a. Each ALS service shall have the capability of using a communications base that complies with the provisions of 7 MCAR § 1.604 D.2.b.-c.

b. Ambulances and their communications bases that operate telemetry shall have:

(1) one two-way Ultra High Frequency (UHF) ~~mobile~~ radio, with CTCSS, capable of operating ~~of~~ on ten UHF voice and telemetry r-f channels, or

(2) one two-way UHF ~~mobile~~ radio, with CTCSS, capable of operating on eight UHF voice and telemetry channels and one UHF or one VHF ~~mobile~~ radio, with CTCSS, capable of operating ~~of~~ on two dispatching r-f channels.

c. ~~b-~~ Ambulances and ~~their~~ communications bases that do not operate telemetry shall comply with 7 MCAR § 1.604 D.2.a-b, or 7 MCAR § 1.603 D.2.a.-b.

d. ~~e-~~ Ambulances and ~~their~~ communication bases using VHF shall comply with 7 MCAR § 1.603 D.2.c.-f.

e. ~~f-~~ Ambulances and communications bases using UHF for dispatching ~~or routine communications~~ shall have the capability of using the following radio frequencies for such functions:

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(1) 462.950 MHz or 467.950 MHz for the mobile radio and 462.950 MHz for the base radio; and

f. e- Ambulances and communications bases while operating telemetry shall use only the following radio frequencies for medical control:

g. f- Ambulances and communications bases shall have the capability of communicating on the statewide VHF radio frequency specified in 7 MCAR § 1.603 D.2.f. Documentation of such capability shall be kept in the licensee's file.

h. g- Ambulances and communications bases shall comply with the provisions of 7 MCAR § 1.603 D.2.e., g., and h.

7 MCAR § 1.605 Standards for the operation of scheduled life support transportation services.

A.2. Scheduled basic life support transportation services shall comply with the provisions of 7 MCAR § 1.603, and scheduled advanced life support transportation services shall comply with provisions of 7 MCAR § 1.604, except as follows: that such Scheduled basic and advanced life support services shall be exempt from those provisions that would specifically prohibit or are not required for their the operation of a basic or advanced life support transportation service as scheduled (BLS or ALS) services in accordance with 7 MCAR § 1.605.

B.2. A licensed scheduled life support transportation service shall provide only the declared schedule of services approved by the commissioner in the granting of the license pursuant to Minn. Stat. § 144.802. Any change in this schedule is subject to the provisions of Minn. Stat. § 144.802.

7 MCAR § 1.608 General provisions.

A.2. Renewal, ~~reporting~~, revocation, and ~~revocation~~. reporting.

B.3. Renewal, ~~reporting~~, revocation, and ~~revocation~~. reporting.

E.1. Inspections. Life support transportation services shall not hinder the inspection activities of authorized agents of the commissioner pursuant to Minn. Stat. § 144.8038.

F.1.b.(5) the applicant's intention to be responsible to the general population of the declared primary service area or to ~~be~~ a specified group of persons as a primary source of the life support transportation service for which it requests licensure.

F.1.d. Licensees that have declared primary service areas in licensure applications current as of ~~June 30~~, September 30, 1980, shall have those declared primary service areas designated in licensure beginning ~~July 1~~, October 1, 1980, provided:

(1) that such primary service areas are consistent with 7 MCAR § 1.608 F.;

(2) that no change in primary service area base of operations, type or schedule of services, schedule of patients to be served, or schedule of availability has been made by the licensee since the receipt of the current effective license; and

(3) that licensees are eligible for licensure beginning ~~July 1~~, October 1, 1980.

Licensees that do not meet criteria set forth in 7 MCAR § 1.608 F.1.d.(1)-(3) shall comply with the provisions of 7 MCAR § 1.608 F.1.a.-c.

G.1. Life support transportation service other than scheduled services shall have written agreements with at least one ~~other~~ neighboring life support transportation service for coverage during times when the licensee's ambulances are not available for service in its primary service area. Such agreements shall specify the duties and responsibilities of the agreeing parties.

7 MCAR § 1.609 Emergency care course and emergency care refresher course approval.

A.3.e. At least one instructor shall be required for every ~~nine~~ (9) ten (10) students in the practical skill sessions and at least one instructor shall be required for every one hundred (100) students in the classroom didactic sessions.

4.a. An emergency care course shall have a total of not less than 81 hours of instruction with a minimum of 60 hours classroom didactic and practical skills and a minimum of 10 hours clinical experience.

7 MCAR § 1.610 Documentation.

A.1.a. current roster and documentation of qualifications of attendants and drivers required in 7 MCAR § 1.603 A.2.a. and 7 MCAR § 1.604 A.4.5.b.;

b. name and address of and signed statement by the medical advisor or director required in 7 MCAR § 1.603 A.2.c. and 7 MCAR § 1.604 A.4.5.d.;

c. documentation of reasonable efforts to arrange for second attendants under special circumstances as required in 7 MCAR § 1.603 A.2.d.(2)-(3) and 7 MCAR § 1.604 A.4.5.d.; and

e. the name and address of the affiliated medical facility and signed statement required by 7 MCAR § 1.604 A.4.5.e.

A.4.b. communications capability as required in 7 MCAR § 1.604 D.2.f.-g.

7 MCAR § 1.611 License fees and expiration dates.

A. License fees. Each application for a license to operate a life support transportation service, as defined in Minn. Stat. §§ 144.801-144.806, shall be accompanied by a basic fee of \$35.00 plus a \$10.00 fee for each ambulance to be operated by the applicant. The licensee shall pay an additional \$10.00 fee for each ambulance added to the life support transportation service during the period for which the license is issued.

B. Expiration dates. Life support transportation services shall be licensed annually for a period from October 1 (or from the date the original license is issued) until September 30. Applicants for license renewal shall submit complete applications by June 30 of each year on a form provided by the commissioner. The license of life support transportation services that are licensed as of the effective date of these rules are hereby extended until September 30, 1980.

Department of Public Welfare

Executive Division

Adopted Rules Governing Minnesota Merit System

The rules proposed and published at *State Register*, Volume 4, Number 27, pp. 1095-1096, January 7, 1980 (4 S.R. 1095) are adopted as originally proposed.

Department of Public Welfare

Social Services Division

Adopted Rules Governing Foster Care for Children and Child Protective Services

The rules (12 MCAR § 2.204 and 12 MCAR § 2.207) proposed and published at *State Register*, Volume 4, Number 19, pp. 759-770, November 12, 1979 (4 S.R. 759) are adopted with the following amendments:

Amendments as Adopted

12 MCAR § 2.204 B.1. Foster care service. The service which provides substitute twenty-four-hour-a-day family or group home care for a planned period of time, provides experiences and conditions which promote normal growth, and provides to the child, the child's family, and the foster parents casework services and other treatment or community services. geared toward reuniting the family.

B.5. Group home. A facility licensed by the Minnesota Department of Public Welfare as a group family foster home under 12 MCAR § 2.001 or as a group home under 12 MCAR § 2.008 or certified by the Department of Corrections as a group foster home or licensed or approved by an Indian tribe with the authority to do so.

B.6. Voluntary placement. Placement in which the local social service agency assumes responsibility for the placement of a child after the agency has determined, in conjunction with the child's parents, and the child, if possible, or legal guardian and the child, if possible, that such placement is in the best interest of the child and his family.

B.8. Custodian. Any persons who is under a legal obligation to provide care and support for a child.

C.1.a. Placement in licensed facility. With the exception of placement in a ~~relative's~~ relative's home, the local social service agency shall place a child in a licensed foster family or group home except in emergencies when an unlicensed foster home may be selected. In these emergency cases, the agency shall assure that application for licensure is made within 30 days of the child's placement if the child is expected to remain in the home for 30 days or longer.

C.1.b.(2)(b) When a child is placed in foster care by voluntary agreement between the local social service agency and the parent(s), or legal guardian, the agency shall:

C.1.b.(2)(b)(ii) require the parents or legal guardian ~~to agree~~ to provide 30 days' reasonable notice to the agency before removing the child from placement. before seeking return of the child from placement so that the agency may prepare for the orderly return of the child in no more than 30 days.

C.1.g.(3) assuring that the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services are offered and/or provided pursuant to 12 MCAR § 2.061 to all children eligible for the Medical Assistance Program;

C.1.h.(1)(a)(viii) the actions to be taken for meeting the special educational needs of the child including the responsibilities of the foster parents and the child's parents.

C.1.h.(1)(d) ~~A detailed visitation plan shall be prepared by the agency~~ The visitation plan shall be detailed and shall include, but not be limited to, the date and conditions of the first visit, specific days of visits, specific hours for beginning and ending of visits and special conditions of visitation.

C.1.i. Child's or foster parents' absence from foster home. The local social service agency's permission must be obtained any time the foster family and/or child are to be away from the licensed foster care facility within the state for a period exceeding three nights or, if the child leaves the state, for any period of time. However, the agency may provide specifically defined blanket permission for departures from the state where a family regularly departs the state for an identified routine purpose.

C.1.k.(2) Parent(s) shall pay for the cost of care in a manner consistent with their ability to do so and with any applicable state laws or rules.

12 MCAR § 2.207 C.1.f. (1)(b) provide counseling and assistance to the victim in order to encourage and support her/his him in discontinuing in prostitution; or involvement in the production of obscene acts or material;

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TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota

Valley Markets, Inc.,

—vs—

**The Commissioner of Revenue,
Docket No. 2772**

Tax Court

Appellant,

Appellee,

Order dated May 7, 1980.

Appellant, Valley Markets, Inc., is engaged in the retail grocery business, it being a North Dakota corporation having Piggly Wiggly Stores in Minnesota and North Dakota. By his Order dated August 18, 1978 the Commissioner of Revenue disallowed an income tax refund claim of \$16,871 for the taxable period of 12-31-75 and 12-31-76 claiming that Valley Markets, Inc., was carrying on a unitary trade or business within and without the State of Minnesota during said periods thereby apportioning for said period its income according to the three factor formula in Minnesota under Minn. Stat. § 290.19.

The appellant claims that it is not a unitary business and that it should be allowed to file Minnesota tax returns under the separate accounting method claiming that this method more properly reflects income allocated to the State of Minnesota from its business.

Paul R. Drees, Certified Public Accountant of Drees, Bredemeier, Risky and Nordell, Ltd., for the appellant,

Paul R. Kempainen, Special Assistant Attorney General, for appellee.

Decision

The Order of the Commissioner of Revenue dated August 18, 1978 is hereby affirmed.

Findings of Fact

Jack Fena

The essential Findings of Fact were stipulated between the parties as follows:

1. Appellant, Valley Markets, Inc. (hereinafter, "Valley Markets"), is a North Dakota corporation doing business as Hugo's Piggly Wiggly Stores within both Minnesota and North Dakota. It was incorporated in 1960 (The Articles of Incorporation of said appellant are incorporated herein by reference) and is engaged in the retail grocery business.

2. During the taxable years at issue herein, 1975 and 1976, Valley Markets owned and operated a chain of four supermarket food stores. Three of these stores were located at Grand Forks, North Dakota, and one store was located in Crookston, Minnesota.

3. Valley Markets is a closely-held private corporation. Its management structure consists of corporate officers, a corporate manager, and individual store managers. During the years at issue herein its president was Curtis A. Magnuson, its vice-president was Dorothy Magnuson, and its Secretary-Treasurer and corporate manager was Hugo Magnuson. The main offices of the corporation are located in the store at 1925 13th Avenue North, Grand Forks, North Dakota. The appellant-corporation's by-laws are incorporated herein by reference.

4. For each store operated by Valley Markets, there is a separate franchise agreement with the Piggly Wiggly Corporation. Under these agreements Valley Markets pays a license fee to the Piggly Wiggly Corporation in exchange for the use of the Piggly Wiggly name and other goods and services. Paragraph 8 of the franchise agreement provides that the license fee shall be based upon a percentage of gross sales volume, with the fee rate going down as sales volume goes up. Valley Markets is allowed under paragraph 8 to combine the gross sales of all its stores in computing its monthly license fees. If Appellant's officers were witnesses herein, they would state that the maximum savings to the Minnesota store under this arrangement is \$187.50 per month. This calculation, however, has not been verified by the commissioner, and he therefore does not necessarily agree to it.

5. Purchasing of inventory is not done according to any particular method, or by written contract. Generally, the department managers (produce, meat, dairy, etc.) in each store will take care of ordering the groceries needed for each particular department. However, most of the corporation's inventory purchasing is done from one supplier, the Nash Finch Company (hereinafter, "Nash Finch"). The price charged by Nash Finch is based upon Nash Finch's cost, plus an "upcharge" ranging from 2 to 5 percent depending upon total volume of purchases in all the stores. The greater the volume of the purchase from Nash Finch, the lower the upcharge rate.

6. If Appellant's officers were witnesses herein, they would state that there was virtually no difference in the upcharge rate for 1975 and 1976, since the Minnesota store had sufficient volume of its own to justify the same upcharge rate. This conclusion, however, has not been verified by the commissioner, and he therefore does not necessarily agree with it.

7. From time to time there is an exchange of fixtures (e.g., cash registers, display cases, etc.) between the stores operated by Valley Markets. If Appellant's officers were witnesses herein, they would call the size of these exchanges inconsequential. There is also a small amount of merchandise exchange from one store (where an item may be moving slowly) to another store (where it moves faster).

8. Advertising is done on a somewhat centralized basis. Ads placed in the Crookston Weekly Shopper are for the Crookston store only, but there is only one advertising contract with the daily Grand Forks Herald for the entire corporation, and ads running in the Grand Forks Herald are for all stores, including the one located in Minnesota. Television advertising is done through the Grand Forks television station for all stores.

9. Insurance protection (fire, theft, liability, workmen's compensation, etc.) is purchased for all stores in the form of a multi-policy package arranged for through a single insurance agent, Vaaler Insurance, Inc., of Grand Forks, North Dakota. An example of the type and scope of insurance coverage purchased by Valley Markets can be obtained from reading the "Proposal of Insurance" prepared for appellant by the Vaaler Insurance Agency, a copy of which is incorporated herein by reference.

10. Basic employee policies such as wages, terms of employment, bonuses and vacation time are set for the corporation as a whole by the Board of Directors and corporate officers. The employee payroll is centrally computerized for the entire corporation by a North Dakota firm retained by Valley Markets. In addition, Valley Markets has set up a single profit-sharing plan for the benefit of its employees at all stores, under which the corporation may contribute up to 15 percent of the compensation of eligible employees into a profit-sharing trust administered by the Red River National Bank of Grand Forks, North Dakota.

11. Decisions to expand and add new stores to the chain are made solely by the appellant's Board of Directors, and such expansion and construction is accomplished under the direction of the corporate officers and corporate manager. For example, the Crookston, Minnesota store, constructed in 1973, was first authorized at a Board of Directors meeting held on March 17, 1972 (See, copy of the March 17, 1972 corporate minutes) and its progress reported back to the Board at a meeting held on April 3, 1973 (See, copy of the April 3, 1973 corporate minutes).

12. Until 1975 Valley Markets had participated in an S & H Green Stamps program for all of its stores. However, this was discontinued by vote of the Board of Directors on April 15, 1975. (See, copy of the April 15, 1975 corporate minutes).

13. A copy of the 1975 and 1976 Financial Statements of Valley Markets were submitted into evidence and received as Exhibits I and J.

14. For both of the years at issue herein, 1975 and 1976, Valley Markets initially filed Minnesota Corporation Income Tax Returns upon which its income was apportioned under the statutory three-factor formula as a unitary multi-state business. Copies of the appellant's original 1975 and 1976 returns are received as Exhibits K and L respectively.

15. On or about July 26, 1977, Valley Markets filed Amended 1975 and 1976 Minnesota Corporation Income Tax Returns. On these amended returns Valley Markets claimed refunds upon the ground that its income should have been apportioned to Minnesota on a separate accounting basis. Copies of the appellant's amended 1975 and 1976 returns are submitted and received as Exhibits M and N respectively.

16. Upon audit by the Department of Revenue a proposal dated July 11, 1978 was issued essentially denying appellant's refund claims. Valley Markets administratively protested this proposal and a conference was held on September 28, 1978. However, the commissioner's proposal was not changed and became an official Order upon the mailing of a letter dated October 5, 1978 from Leon Bothwell, Corporation Group Chief, Income Tax Division, to Valley Markets. See Exhibit O.

17. Valley Markets has filed a timely Notice of Appeal to the Tax Court from the commissioner's determination.

Conclusions of Law

1. Appellant, Valley Markets, was carrying on a unitary trade or business within and without the State of Minnesota during the years 1975 and 1976, so that its income for those years was apportionable according to the three-factor formula in Minn. Stat. § 290.19.

2. The Order of the Commissioner herein dated August 18, 1978 rejecting appellant's claim for refund based upon a separate accounting method of apportionment, is correct and proper, and is affirmed in all respects.

Memorandum

The determination under Minn. Stat. § 290.19, subd. 1(2)(b), of whether application of the three-factor formula fairly and properly reflects the net income attributable to Minnesota is a matter largely within the discretion of the Commissioner of Revenue. *Rothschild and Co. v. Commissioner of Taxation*, 270 Minn. 245, 246, 133 N.W. 2d 524 (1965); *Walgreen Company v. Commissioner of Taxation*, 258 Minn. 522, 104 N.W. 2d 714; *Western Auto Supply Co. v. Commissioner of Taxation*, 245 Minn. 346, 71 N.W. 2d 797.

The application of the proper use of the commissioner's discretion in applying the three-factor formula must be considered on a case by case basis.

Minn. Stat. § 290.19, subd. 1(2)(b) states:

If the methods prescribed under clause (2)(a) will not properly reflect taxable net income assignable to the state, there *may* be used, *if practicable* and *if* such use will properly and *fairly reflect such income*, the percentage which the sales, gross earnings, or receipts from business operations, in whole or in part, within this state bear to the total sales, gross earnings, or receipts from business operations wherever conducted; or the separate or segregated accounting method; (Emphasis supplied).

Regulation 2019(c) states:

The single factor of sales, gross earnings or receipts may be used *only* if (1) the use of the arithmetic average of the three factors or the use of the weighted average of those factors, whichever is the lesser, will not properly reflect the taxable net income assignable to this state, and (2) the use of the single factor of sales, gross earnings or receipts will properly and fairly reflect such income. (Emphasis supplied.)

The method chosen to allocate a corporation's income between Minnesota and other states must be a true reflection of the total business activity conducted by the corporation in this state.

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The Minnesota Supreme Court in the case of *Western Auto Supply Co. v. Commissioner of Taxation*, 245 Minn. 346, 369, 71 N.W. 2d 797 (1955) stated:

The problem of allocation, however, is always one of securing for the state a fair, honest, and equitable part of the total corporate income measured in terms of corporate activity within the state.

The United States Supreme Court in *General Motors Corporation v. District of Columbia*, 380 U.S. 553, 561, 85 S. Ct. 1156, 1161 (1965), ruled against the application of the single factor apportionment formula in the District of Columbia, stating:

While the court has refrained from attempting to define any single appropriate method of apportionment, it has sought to insure that the methods used display a modicum of reasonable relation to corporate activities within the state.

Further in its opinion the Supreme Court seems to lean toward preferring the standard 3 Factor Formula as applied herein by the Commissioner, there stating:

The standard three-factor formula can be justified as a rough, practical approximation of the distribution of *either a corporation's sources of income* of the social costs which it generates. By contrast, the geographical distribution of a corporation's sales is, by itself, of dubious significance in indicating the locus of either factor. (Emphasis supplied).

Allocation of income to this state for purposes of taxation is governed by Minn. Stat. § 290.17; which during the taxable years 1975 and 1976 read in relevant part as follows:

Items of gross income shall be assigned to this state or other states or countries in accordance with the following principles:

(4) When a trade or business is carried on partly within and partly without this state, the entire income derived from such trade or business, including income from intangible property employed in such business and including, in the case of a business owned by natural persons, the income imputable to the owner for his services and the use of his property therein, shall be governed . . . by the provisions of § 290.19, notwithstanding any provisions of this section to the contrary.

Minn. Stat. § 290.19 provides that the entire net income of a multi-state business subject to the above provision shall be apportioned according to a three-factor formula basis.

In the present case there can be no doubt that Valley Markets was carrying a business partly within and partly without the State of Minnesota. This point is uncontested inasmuch as paragraph 1 of the Stipulation of Facts reads "Appellant . . . is a North Dakota corporation doing business as Hugo's Piggly Wiggly Stores within both Minnesota and North Dakota." Moreover, the facts support this stipulation, since Valley Markets owned and operated one store in Minnesota and three stores in North Dakota during the years in question.

Clearly, Valley Markets was doing business in both Minnesota and North Dakota in such a manner as to bring it within the language of Minn. Stat. §§ 290.17(4) and 290.19. However, Appellant is claiming that this business was not a "unitary" one. It claims instead that it was carrying on two separate businesses, one wholly in Minnesota and the other wholly in North Dakota, and that its income from these two businesses should be apportioned by separate accounting. Therefore, the precise issue to be resolved herein is whether Valley Markets was in fact carrying on a "unitary" multi-state business as the Commissioner of Revenue has determined.

In the present case Valley Markets is engaged in the retail grocery trade, which is a mercantile business. While there has been much case law dealing with the question of whether or not a business is unitary, we can concentrate for purposes of this action on the three leading appellate court decisions which have dealt with the question of whether a mercantile corporation is a unitary business.

These three cases are *Butler Bros. v. McColgan*, (1942), 315 U.S. 501, 62 S. Ct. 701, 86 L. Ed. 991; *Western Auto Supply Co. v. Commissioner of Taxation*, *supra*, *Maurice L. Rothschild & Co. v. Commissioner of Taxation*, *supra*.

In addition to these three appellate decisions, there are the Minnesota Tax Court cases of *Associated Dry Goods Corporation v. Commissioner of Taxation*, Dkt. No. 1599 (May 17, 1974), aff'd by evenly divided court, 306 Minn. 532, 235 N.W. 2d 821, cert. den. 425 U.S. 999, 96 S. Ct. 2216; and *The House of Vision, Inc. v. Commissioner of Taxation*, Dkt. No. 588 (Feb. 26, 1957).

In all of these cases, the mercantile businesses involved were found to be unitary, and the application of the three-factor apportionment formula was upheld. When the legal tests set down in these cases are applied to the facts involving Valley Markets herein, it is clear that the multi-state business of Valley Markets is also unitary in nature.

In *Butler Bros. v. McColgan*, *supra*, the United States Supreme Court set down the basic principles involved in holding that an Illinois corporation engaged in the wholesale dry goods and general merchandise business, with distributing houses in seven different states, each one operating to a great extent independently of the others, was nevertheless a unitary business whose total income was subject to California's three-factor apportionment formula. Justice Douglas wrote for the court, in 315 U.S. at 508-9, S. Ct. 704-5, as follows:

At least since *Adams Express Co. v. Ohio State Auditor*, 165 U.S. 194, 17 S. Ct. 305, 41 L. Ed. 683, this Court has recognized that *unity of use and management* of a business which is scattered through several states *may be considered when a State attempts to impose a tax on an apportionment basis*. As stated in *Hans Rees' Sons, Inc. v. North Carolina*, *supra*, 283 U.S. page 133, 51 S. Ct. page 389, 75 L. Ed. 879, ". . . the enterprise of a corporation which manufactures and sells its manufactured product is ordinarily a unitary business, and all the factors in that enterprise are essential to the realization of profits" . . . By the same token, California may properly treat appellant's business as a unitary one. . . . *There is unity of ownership and management*.

We cannot say that property, payroll, and sales are inappropriate ingredients of an apportionment formula. We agree with the Supreme Court of California that these factors may properly be deemed to reflect "the relative contribution of the activities in the various states to the production of the total unitary income," so as to allocate to California its just proportion of the profits earned by appellant from this unitary business. (Emphasis added)

Following these principles, our own Minnesota Supreme Court, in *Western Auto Supply Co. v. Commissioner of Taxation, supra*, has set down the following test in determining whether a multi-state business is unitary or not:

A multistate business is a unitary business when the operations conducted in one state benefit and are in turn benefited by the operations conducted in another state or states. The test to be applied in determining whether a business is a unitary one is based upon the following inquiry: Is the operation of the business within the state "dependent upon or contributory to the operation of the business outside the state?"

The test of whether a business is unitary is whether its various parts are interdependent and of mutual benefit so as to form one business unit rather than separate business entities and not whether the operating experience of the parts is the same in all places.

This same test has been referred to in subsequent cases, including the case of *Maurice L. Rothschild & Co., supra*, 270 Minn. at 252-3, 133 N.W. 2d at 529, which dealt with a factual situation very similar to the present case involving Valley Markets.

In the *Rothschild* case, the taxpayer's business consisted entirely of the operation of six retail stores, three in the Twin Cities area and three in the Chicago area, all selling men's, boys', women's and girls' clothing. Its officers were equally divided in both localities, the president, vice president and treasurer residing in Chicago, and four vice presidents residing in Minnesota.

Each store in *Rothschild* operated to a large extent independently of the other stores. The Minnesota stores had their own purchasing office, their own merchandise managers and buyers, and their own buying office in New York. Separate decisions were made by each store with respect to quantity and type of merchandise to be purchased, although it could not change any brand name carried without the approval of all the officers. Each store maintained its own accounting records and handled its own accounts receivable and payable and had its own bank account. Each store also handled its own employment and personnel matters.

However, the Board of Tax Appeals in *Rothschild* found, and the Supreme Court affirmed, that frequent consultations between the management of the Chicago and Minnesota stores were held concerning fast-moving items and overall policy; that slow-moving merchandise in one store or area would occasionally be shipped to other stores for possible better and faster disposition; that although many lines of merchandise carried in the Chicago stores differed from those carried in the Minnesota stores, the basic lines in men's and women's clothing and in men's shoes were the same; that because of this, price concessions resulted due to volume purchases and there was faster service on reorders and greater advertising allowances by the manufacturer.

When the facts of the present case are compared with those in *Rothschild, supra*, it can be readily seen that Valley Markets presents an even more compelling case for a finding of unitary business. It is clear that the one store owned by Valley Markets in Minnesota and three stores located in North Dakota were in fact operated as one business unit.

First of all, there was unity of both ownership and management over all four stores. Valley Markets was not broken down into subsidiaries or divisions, but was one corporation filing one tax return for both federal and state purposes. The Board of Directors and the corporate officers exercised centralized management control over the entire corporation. Moreover, there was but one corporate manager exercising centralized control over the ordinary and usual business operations of the entire corporation. There was no attempt to set up a separate management team for each state, Minnesota and North Dakota, as was the case in *Rothschild*.

Valley Markets' centralized management exercised direct business control over numerous areas having to do with all four stores. For example, basic employee policies such as wages, terms of employment, bonuses and vacation time, were set for the entire corporation by the central management. The payroll was centrally computerized and the Board of Directors and corporate officers also set up a single profit-sharing plan for all four stores, administered by a North Dakota bank. Insurance for all stores was purchased in one package by central management from a single insurance agent.

Another example of centralized management is the fact that decisions to expand and add new stores (including the Minnesota store in Crookston) were made solely by the Board of Directors, and such expansion was accomplished under the direction of the corporate officers and corporate manager. For at least part of the year 1975, an S & H Green Stamp program was in effect for all stores, and when the program was discontinued the decision was made by the Board of Directors rather than individual store managers. Finally, the accounting and financial statements for the corporation as a whole were done by one accounting firm.

While it may be true that much of the day-to-day operation of individual stores was done autonomously by the store managers, as alleged in Appellant's brief on page 3, the same was true in the *Rothschild* case to an even greater extent. In *Rothschild*, it was found that:

[T]he Minnesota stores had their own purchasing office, their own merchandise managers and buyers, and their own buying office in New York; that separate decisions were made by each store with respect to quantity and type of merchandise purchased, especially in women's wear; . . . that each store maintained its own accounting records and handled its own accounts receivable and payable and had its own bank account; . . . that store employment and personnel problems were handled separately by each store and labor relations and labor contracts were handled locally;

270 Minn. at 250, 133 N.W. 2d at 527.

Nevertheless the *Rothschild* Court affirmed the Tax Court's finding that:

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[A]lthough each store operated to a large extent independently of the other store, there existed sufficient integration between all the stores so that for purposes of allocation of income for tax purposes taxpayer's business was a unitary business; *Ibid*.

The same day-to-day autonomy by individual division or store managers was also present in *Butler Bros.*, *supra*; *Western Auto Supply*, *supra*; and *Associated Dry Goods*, *supra*. Yet in all these cases the courts held that the multi-state businesses involved were unitary in nature.

In addition to unity of ownership and management there are other factors leading to the conclusion that Valley Markets was carrying on a unitary business. The franchise fees which were paid to Piggly Wiggly Corporation were based upon the total gross sales of all four stores, with the fee rate going down as the sales volume went up. However small this benefit may have been, it was undeniably of mutual benefit to all stores.

In the area of purchasing inventory, many decisions were made by department managers in each store, but most of the inventory for the corporation as a whole was purchased from one supplier, the Nash Finch Company, whose prices were calculated using an "upcharge" rate based upon total volume of purchases in all stores. It is reasonable to assume that this arrangement with Nash Finch was arrived at by the central management of Valley Markets. Again, this "upcharge" arrangement was of undeniable mutual benefit to all four stores, however small it may have been in operation.

Other facts showing that the stores owned by Valley Markets were operated as a single business unit include the exchange of fixtures between the stores, and the exchange of slow-moving merchandise from one store to another. It is noteworthy that merchandise exchanging also took place in *Rothschild*. Finally, the advertising done by Valley Markets was largely centralized for all stores through the Grand Froks newspaper and television stations, although the Crookston store did run its own ads in the Crookston weekly shopper.

In summary, what emerges in this case is a clear picture of Valley Markets as a closely-knit company, owned and managed on a centralized basis, with many more inter-store relationships and ties than were present in the *Rothschild* case. When the legal test set down by the Minnesota Supreme Court in both *Rothschild* and *Western Auto Supply*, *supra*, are applied to the facts of the present case it must be concluded that Valley Markets was carrying on a unitary business.

Appellant's main position is that the Crookston store was not a successful operation during the years in question and therefore could not have been of mutual benefit to the North Dakota stores. Even so, the Minnesota Supreme Court set out in *Western Auto Supply*, *supra*, the legal test as follows:

The test to be applied in determining whether a business is a unitary one is based upon the following inquiry: Is the operation of the business within the state "dependent upon or contributory to the operation of the business outside the state?" (Emphasis added)

Thus it is clear that the Crookston store owned by Valley Markets does not actually have to contribute to the prosperity of the North Dakota stores in order to be considered part of a unitary business with them. It is enough that the Crookston store is "dependent upon" the North Dakota stores for certain benefits to its operation. Such benefits are present in this case.

Moreover, mere differences in operating experience between separate stores was rejected by the Court in *Western Auto Supply*, *supra*, as a ground upon which to hold a business non-unitary. In 245 Minn. at 357, 71 N.W. 2d at 805 the Court said:

If the taxpayer's objection to the method of apportionment used, based on the fact that the operating experience of its retail units is not uniform throughout the nation, were valid, then no business could be found to be unitary and the formula method applied would always be invalid.

Another argument advanced by Valley Markets is that the commissioner acted arbitrarily and capriciously in denying its petition to use separate accounting under Minn. Stat. § 290.20. However, it must be remembered that the very first sentence of Minn. Stat. § 290.20 reads as follows:

The methods prescribed by § 290.19 shall be presumed to determine fairly and correctly the taxpayer's net income allocable to this state.

It is well settled that the commissioner has considerable discretion in allowing or disallowing the use of separate accounting for multi-state unitary businesses like Valley Markets, for the simple reason that the three-factor apportionment formula has been judicially recognized as the superior method in such cases. As the Court said in *Western Auto Supply*, 245 Minn. at 358-9, 71 N.W. 2d at 805-6:

Our statute leaves the use or rejection of the separate accounting method to the discretion of the commissioner initially, subject to the requirement that the method he adopts will properly and fairly reflect taxable net income assignable to Minnesota. It cannot be questioned that the proposition that multiple-formula method of apportionment adopted by the commissioner in the instant case does properly and fairly reflect the taxable net income earned in a given state by a unitary business finds support in the cases and among the leading authorities of accounting and allocation of income in state taxation.

The authorities, we believe, preponderate in holding that the separate accounting method is inherently incapable of accurately apportioning the income of a unitary business.

Under these principles, it is clear that the commissioner did not act in an arbitrary or capricious manner in denying Appellant's petition for separate accounting.

Jack Fena, Judge



Opossum

THE OPOSSUM is probably the most unusual of Minnesota's wild mammals. A marsupial, it is a distant relative of the kangaroo and other animals which carry their young in a pouch.

The opossum is about the size of a house cat and weighs from four to 12 pounds. It measures nearly three feet from its long pink nose to its long naked tail, which it uses as a climbing aid. At night, the opossum forages for small rodents, fruits, nuts, birds, insects, carrion and other foods. After eating, it squats on its hind legs and washes itself, much like a cat.

Opossum young (usually eight to 12) are not fully developed at birth. Their tiny front feet have minute claws which the babies use to climb up the mother's belly and into her pouch, where they attach themselves to teats and remain for 60 to 70 days. For another month after that, the young climb in and out of the pouch, never straying far. Finally, when mouse-size, they climb aboard the mother's back where they spend much of their time until becoming more independent.

The opossum lives primarily in southern Minnesota woodlands, but occasionally ranges into north-central counties. Its naked ears, nose and tail are very susceptible to freezing temperatures, which explains why the species is not found farther north.

SUPREME COURT

Decisions Filed Friday, May 16, 1980

Compiled by John McCarthy, Clerk

50560/246 State of Minnesota vs. Fred Christopher Romanowski, Hennepin County.

Juvenile court did not clearly err in its findings or abuse its discretion in determining that defendant was not amenable to treatment in the juvenile justice system consistent with the public safety.

Record made when defendant entered his guilty plea was adequate to justify acceptance of the plea, and there is nothing in the record which would justify permitting withdrawal of the plea.

Affirmed. Sheran, C. J.

50311/240 Daniel E. Wolfe, petitioner, Appellant, vs. State of Minnesota. St. Louis County.

Evidence held sufficient to sustain conviction for second-degree murder.

Trial court in second-degree murder case did not commit prejudicial error in refusing to submit lesser offense of second-degree manslaughter.

Affirmed. Otis, J.

50418/244 In the Matter of the Welfare of Justin L. Clipper. Hennepin County.

Juvenile court properly admitted reliable hearsay evidence and did not clearly err in its findings or abuse its discretion in determining that juvenile was dangerous and not suitable for treatment, and therefore court's decision to grant reference motion pursuant to Minn. Stat. § 260.125 (1978) is affirmed.

Affirmed. Otis, J.

SUPREME COURT

50125/241 State of Minnesota vs. Gerald L. Garretson, Appellant. Hennepin County.

Evidence of defendant's participation in aggravated robbery committed in his presence by friends of his *held* sufficient against claims that evidence did not establish (a) defendant's intentional participation in the offense or (b) that a dangerous weapon was used.

Trial court did not err in admitting photograph of pretrial lineup. Defense counsel, by failing to object to prosecutor's reference to photograph in closing argument, is deemed to have forfeited his right to have this court rule on the propriety of the comment.

Defense counsel, by failing to object to instruction by trial court which informed jury that it could consider *Spreigl* evidence in assessing defendant's credibility, is deemed to have forfeited his right to have this court rule on the propriety of the instruction.

Defendant convicted of crime in which dangerous weapon is used by accomplice is subject to the minimum term provision of Minn. Stat. § 609.11 (1978).

Affirmed. Todd, J.

50318/152 Northern Natural Gas Company, operating as Peoples Natural Gas Division, Appellant, vs. Minnesota Public Service Commission, et al., Eveleth Taconite Company, Reserve Mining Company, Erie Mining Company, Hanna Mining Company, United States Steel Corporation. Ramsey County.

The Minnesota Public Service Commission has jurisdiction under the Minnesota Public Utility Act to regulate retail sales of natural gas made directly from an interstate pipeline to Minnesota "direct sale" customers comprised of 34 large industries and approximately 2,100 farmers.

Affirmed. Yetka, J.

49503/247 State of Minnesota vs. Clifford Ordean Djonne, Appellant. Hennepin County.

Evidence of defendant's guilt *held* sufficient.

While prosecutor should have sought an on-the-record hearing to obtain the court's permission to question defendant about a prior conviction for burglary, the prosecutor's failure to do so does not require a new trial.

Defendant, by failing to object to impeachment evidence or to lack of submission of lesser offenses, is deemed to have forfeited his right to have these issues considered on appeal.

Affirmed. Yetka, J.

49889/449 LeAnne Carufel, Appellant, vs. Raymond Steven. Hennepin County.

Under the unique facts of this case, a jury award of \$25,000 general damages is inconsistent and irreconcilable with a finding of no permanent injury; therefore, a new trial must be granted.

Reversed and remanded. Yetka, J. Concurring specially, Todd, J., Scott, J., and Kelly, J.

50231/11 State of Minnesota, City of Minneapolis, petitioner, Appellant vs. Lorri Ann Clark. Hennepin County.

A defendant, charged with common prostitution, may not be cross-examined with regard to previous arrests for and guilty pleas in charges of loitering with intent to solicit for prostitution in violation of a municipal ordinance.

Affirmed. Wahl, J. Dissenting, Kelly, J., Todd, J., Scott, J., and Sheran, C. J.

50481/225 Gail Anderson, petitioner, Appellant, vs. Independent School District No. 623. Ramsey County.

There was substantial competent evidence to support the discharge of a tenured teacher on the grounds set forth in Minn. Stat. § 125.12, subd. 8(c) and (e) (1978) for a second wrongful use of sick leave, and the decision of the school board to discharge her was a permissible exercise of its power to manage the school district.

Affirmed. Wahl, J.

50356/243 William Strickland Dees, petitioner, Appellant, vs. State of Minnesota. Ramsey County.

Petitioner seeking postconviction relief on the ground of ineffective assistance of counsel failed to meet his burden of proof.

Affirmed. Wahl, J.

48822/377 State of Minnesota vs. Merle Edward Leecy, Appellant. St. Louis County.

Trial court did not err in admitting evidence of prior misconduct by defendant which was relevant to defendant's guilt, and *Spreigl* notice of prosecutor's intent to introduce this evidence was not needed since prior incident was part of "immediate episode," out of which charges against defendant arose.

Admission of an eight-year-old aggravated assault conviction for impeachment purposes was harmless error under the circumstances of this case; defendant, by failing to object, forfeited his right to raise on appeal the issue of the trial court's failure to give a cautionary instruction limiting the use of this evidence.

Although the trial court erred in sustaining a claim of marital privilege against adverse testimony for defendant by the estranged wife of a prosecution witness, the evidence was admitted through other witnesses, including the witness' stepdaughter, and defendant was not prejudiced by the court's ruling.

The evidence of defendant's guilt was not, as defendant contends, legally insufficient.

Affirmed. Wahl, J. Concurring specially, Scott, J., Peterson, J., Kelly, J., and Todd, J.

49291/434 State of Minnesota vs. Wilmer Martin, Appellant. Hennepin County.

The evidence is insufficient to sustain defendant's conviction for third-degree murder.

Reversed. Wahl, J.

49268/476 James L. Sorenson vs. Melvin William Kruse, L & M Realty, Appellant. Olmsted County.

Where the liability of the non-settling defendant in a consolidated case derived from that of the settling defendant, and the plaintiffs' claims in the consolidated cases were identical, the trial court erred in disclosing the terms of a cash receipt and settlement agreement to the jury. However, such error was non-prejudicial where substantial independent evidence of the record established defendant's causal negligence.

The trial court's dismissal of the cross-claim between two defendants was not error where the cross-claimant's insurer was estopped from denying coverage to the other defendant and counsel retained by the insurer voluntarily represented both defendants.

The jury awards of \$97,500 to a 27-year-old man who, as a result of the accident, suffers a fifteen to twenty percent permanent partial disability of the spine which affects his work output as a painter and carpenter, was not excessive, and remittitur was properly denied.

Affirmed. Wahl, J. Took no part, Otis, J.

50036/500 State of Minnesota, Plaintiff, vs. David Roy Mack. Hennepin County.

Under the facts and circumstances of the case, a previously hypnotized witness may not testify in a criminal proceeding concerning the subject matter adduced at the pretrial hypnotic interview.

Certified question answered in the negative. Wahl, J.

49578/195 In the Matter of the Application for the Disbarment of Peter George Hedlund, an Attorney at Law of the State of Minnesota. Supreme Court.

A lawyer's failure to repent for the actions for which he was convicted of a felony will not necessarily be considered an aggravating circumstance in a disbarment proceeding where the lawyer fails to repent because he maintains that he did not commit the actions for which he was convicted.

Since a lawyer's criminal conviction is conclusive evidence that he committed the actions for which he was convicted, this court will not relitigate the facts of the conviction. However, this court will look at the circumstances surrounding the criminal act to see whether some discipline less than disbarment would be appropriate.

Peter George Hedlund is ordered disbarred and his name shall be removed from the list of licensed lawyers within the State of Minnesota. Per Curiam.

Decisions Filed Friday, May 9, 1980

51149/312 State of Minnesota, Appellant, vs. Randall George Vohnoutka. Scott County.

Police officer, while standing in place in which he had a right to be next to automobile which had not been stopped by officer or temporarily seized, properly shined flashlight through window into passenger compartment, and marijuana which he saw in open view justified subsequent search of vehicle pursuant to motor-vehicle exception to the warrant requirement.

Reversed and remanded for trial. Sheran, C. J.

51115/313 State of Minnesota, Appellant, vs. Harlan Edwin Schroeder, Jr. Wabasha County.

Pretrial appeal by state in criminal case from order suppressing evidence is dismissed for failure to timely file brief.

Dismissed. Per Curiam.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Administration Information Services Bureau Notice of Availability of Contract for Back-up Programming Services

The Information Services Bureau of the Department of Administration of the State of Minnesota is requesting a proposal from qualified firms to provide backup programming services to be used by the Bureau on an as-needed basis. This may involve programming in COBOL, BAL, BASIC, or FORTRAN IV programming languages, with emphasis on COBOL and BAL. This may also involve coding for the report generators ASI-ST and DYLAKORE. These services may also include designing and coding the linkages to the TOTAL data base manager, and designing and coding for the interface to the on-line monitor CICS. This work may be on projects for any of forty-one (41) state agencies. Proposals for part of this work will be considered (i.e., responders are not required to commit to the entire \$850,000.00). However, the bureau will not consider proposals for increments of less than \$150,000.00. The bureau reserves the right to contract this work out to several responders, or to award the entire amount to one responder. The total amount expended for this activity will not exceed \$850,000.00 for a period of twelve (12) months (July 1, 1980 through June 30, 1981).

The full text of the Request for Proposal is available on request. Inquiries and responses should be directed to:

Norbert A. Bohn
Information Services Bureau
5th Floor Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: (612) 296-6326

Responses must be received by 4:00 p.m., June 20, 1980.

Notice of Availability of Contract for Back-up Programming Services

The Information Services Bureau of the Department of Administration of the State of Minnesota is requesting a proposal from qualified firms to provide back-up systems analysis services to be used by the bureau on an as-needed basis. This will involve basic systems analysis using the PRIDE systems development methodology. This may involve back-up assistance to a

staff analyst of the bureau on a specific phase of a project, or taking responsibility for specific phases of a project; this work to be assigned at the discretion of the bureau. This work may be on projects for any of forty-one (41) state agencies. The total amount expended for this activity will not exceed \$150,000.00, for a period of twelve (12) months (July 1, 1980, through June 30, 1981).

The full text of the request for proposal is available on request. Inquiries and responses should be directed to:

Norbert A. Bohn
Information Services Bureau
5th Floor Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: (612) 296-6326

Responses must be received by 4:00 p.m., June 20, 1980.

Department of Corrections Minnesota Correctional Facility—Stillwater

Notice of Request for Proposals for Providing Family Counseling

Notice is hereby given that the Minnesota Correctional Facility, Stillwater, requests proposals to provide Family Counseling to inmate residents and their relatives as outlined in the Residential Family Counseling Program description at an annual cost not to exceed \$9,900. These proposals must be submitted by 4:30 p.m., June 16, 1980, to Peter E. Bjurstrom, Director of Minimum Security. Please contact Mr. Bjurstrom at 612-439-1910, Ext. 403, if interested.

Notice of Request for Proposals for Providing Food Services

Notice is hereby given to request proposals for the professional management of our Food Service Activity at an annual cost not to exceed \$200,000. This proposal shall include all civilian personnel to operate the service. The proposals must be submitted by 4:30 p.m., June 16, 1980, to John Twohig, Plant Management Director. Please contact Mr. Twohig at 612-439-1910, Ext. 318, if interested.

Department of Economic Security Business and Financial Services Division

Analysis of Financial and Budgeting Systems

The proposal requests the consultant conduct an in-depth review of the department's internal budgeting and financial reporting systems to identify necessary modifications so these systems can support a program of decentralized financial decision making. It does not involve major systems re-design.

Estimated cost: \$5,000

Firms/individuals desiring consideration should respond to:

Mary Ellen Hennen
Business and Financial Services
Room 125
390 North Robert Street
Saint Paul, Minnesota 55101
(612) 296-6055

Responses must be sent in no later than June 3, 1980.

Energy Agency Conservation Division

Notice of Request for Proposals for Technical Evaluation of Federal Maxi-Audit and Energy Conservation Measures Applications

The Conservation Division, Commercial and Institutional Programs Activity, Minnesota Energy Agency is seeking individuals or organizations to perform technical evaluation of Federal maxi-audit and energy conservation measures applications. This analysis, which will be provided under contract, is outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Margaret Post
Commercial and Institutional Program
Conservation Division
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 297-2310

It is anticipated that the activities to accomplish this analysis will not exceed a total cost to the state of \$30,000. The deadline for the submission of completed proposals will be the close of the working day, June 13, 1980.

State Planning Agency Office of Local and Urban Affairs

Notice of Request for Proposals for Development of Community Energy Planning Models

The Office of Local and Urban Affairs is seeking proposals from qualified consultants to develop a methodology for community energy planning. The project will consist of the following general tasks:

- 1) Conduct literature search, review and report of existing energy planning activities;
- 2) Develop a methodology for community energy planning and implementation;
- 3) Translating the methodology in a practical work book for use by local governments.

Maximum project cost: \$69,000.00.

Application deadline: June 23, 1980.

To obtain a Request for Proposal packet, please write to:

Community Energy Planning RFP, Fred Grimm
Office of Local and Urban Affairs
State Planning Agency
Room 200 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

This notice of Request For Proposal does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Public Welfare Chemical Dependency Program Division

Notice of Request for Proposal for a Human Resources Analysis Project

Notice is hereby given that the Chemical Dependency Program Division (CDPD), Department of Public Welfare, is seek-

STATE CONTRACTS

ing bids to conduct a study of human resources development and utilization in the general area of chemical dependency program service within the State of Minnesota. It is the intention of the CDPD to develop a human resources development and utilization strategy using data received from this study as a base.

The estimated amount of the contract in each of these areas will not exceed \$56,000.00. Responses must be received by June 27, 1980.

Direct inquiries to:

Don L. Devens
Manpower and Training Coordinator
Chemical Dependency Program Division
Minnesota Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155
(612) 296-3991

Office of the State Treasurer Unclaimed Property Division Notice of Request for Legal Services

The Unclaimed Property Division of the State Treasurer's Office is requesting the services and technical advice of an attorney with respect to administration and enforcement of Minnesota's Unclaimed Property Act. The individual shall provide assistance for the internal auditors in connection with audits of property holders, for in-office compliance program, and in obtaining compliance by the federal government with the Unclaimed Property Act. A thorough knowledge of the unclaimed property act and related court cases is essential.

Estimated cost of the contract is \$10,000.

For further information contact:

Faith E. Woodman
Director of Unclaimed Property
G-21 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone (612) 296-2568

Requests for information will be answered until June 13, 1980.

Notice of Request for Accountant Services

The Unclaimed Property Division of the State Treasurer's Office is requesting services and technical advice of an accountant for the examination of banks, financial institutions, and corporations for compliance with the unclaimed property act. In addition, the consultant shall provide assistance as an in-house analyst in the computer programming of unclaimed property. A thorough knowledge of the unclaimed property act and related court cases is essential.

Estimated cost of the contract is \$10,000.

For further information contact:

Faith E. Woodman
Director of Unclaimed Property
G-21 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone (612) 296-2568

Requests for information will be answered until June 13, 1980.

Notice of Request for Consultant Services

The Unclaimed Property Division of the State Treasurer's Office is requesting the services of a consultant to assist in locating owners of unclaimed property and to inform businesses of their obligation to report unclaimed property.

For further information contact:

Faith E. Woodman
Director of Unclaimed Property
G-21 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone (612) 296-2568

Estimated cost of the contract is \$10,000.

Requests for information will be taken until June 13, 1980.

Department of Transportation

Notice of Request for Proposals for Counseling Services

The Minnesota Department of Transportation is accepting proposals for a professional psychologist to provide professional counseling service for the purpose of resolving problems adversely affecting the ability of employees to perform in a proficient and productive manner. The contractor will conduct training courses for supervisors and managers in the appropriate techniques used in motivating employees as well as providing guidance to employees who may be suffering emotional trauma associated with potential layoffs or career changes necessitated by reduced program activity.

The contractor must possess:

1. A doctorate in psychology.
2. A license as a professional psychologist.
3. 4 years experience in the practice of clinical psychology.
4. Experience as a professional counselor with an employer of 1,000 or more employees ranging from managers and professionals to trade persons, technicians, and clerks.

A contract for the requested services will commence July 1, 1980 and terminate on June 30, 1981. The compensation limit during the contract period is \$30,000.00 with payment not to exceed \$30.00 per hour. Payments will be made monthly for the hours listed on the monthly report. Services are to be provided to Mn/DOT employees at least 3 days in each work week.

Qualified professionals should submit their resumes and work plan proposals not later than June 17, 1980.

Roger W. Durbahn
Assistant Personnel Director
Minnesota Department of Transportation
315 Transportation Building
Saint Paul, Minnesota 55155

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture Agronomy Services Division

Notice of Special Local Need Registration for Vydate L

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture, on May 8, 1980, issued a Special Local Need Registration for Vydate L Insecticide/Nematicide manufactured by E.I. du Pont de Nemours and Company, Inc., Wilmington, Delaware 19898.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on apples to control spotted tentiform leafminer.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 80-0011) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
Phone: (612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 9, 1980

Mark W. Sectin,
Commissioner

Notice of Special Local Need Registration for Nortron E.C.

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture, on May 8, 1980, issued a Special Local Need Registration for Nortron E.C. manufactured by Fisons Incorporated, Bedford, MA 01730.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide for post-emergence weed control in sugar beets when tank mixed with Betanex or Betanex plus Betanal.

OFFICIAL NOTICES

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 80-0010) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
Phone: (612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 9, 1980

Mark W. Seetin,
Commissioner

Department of Commerce Banking Division

Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Governing the Operation of Savings and Loan Associations, Amortization of Unsold Other Real Estate, Surety Bond Requirements, Branch Office Applications, Hearing and Approval Procedures, and Liquidity Requirement Calculations

Notice is hereby given that the Department of Commerce, Banking Division is soliciting information and opinions from sources outside of the agency for the purpose of preparing amendments to existing rules relating to the operation of savings associations, their required methods of determining compliance with statutory liquidity reserve levels, amortization methods authorized for determining the book value of unsold other real estate owned, amount of surety bond coverage and permissible deductible terms, and the modification of the hearing require-

ment for branch approvals where no appearances are made in objection to published applications.

Any persons desiring to submit data or views on subjects may do so either orally or in writing. All written submissions will become part of the record in any subsequent hearing.

All written or oral information and comment should be addressed to:

James G. Miller, Assistant Commissioner
Banking Division
500 Metro Square Building, 7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2135

All statements of information and comment must be received by July 1, 1980.

May 16, 1980

Michael J. Pint
Commissioner of Banks

Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules and Amendments to Rules Governing Credit Union Operations, Real Estate Loans, Approval of Acquisition and Capitalization of Fixed Assets, Approval of Certain Employees by Board of Directors and Credit Insurance Activity

Notice is hereby given that the Department of Commerce, Banking Division is soliciting information and opinions from sources outside of the agency for the purpose of preparing amendments to existing rules related to the operation of credit unions, their purchase of real estate, making of loans secured by junior liens, documentation of real estate-secured loans, capitalization of furniture and fixtures, approval of the hiring of relatives of officials, calculating credit insurance reimbursement and limitations on participation by officials in the sale of credit insurance. Rules are proposed to be drafted concerning the sale of certain real estate loans for liquidity purposes. Any persons desiring to submit data or views on the subjects may do so either orally or in writing. All written submissions will become part of the record in any subsequent hearing.

All written or oral information and comments should be addressed to:

Mr. James G. Miller, Assistant Commissioner
Banking Division
500 Metro Square Building, 7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2135

All statements of information and comment must be received by July 1, 1980.

May 16, 1980

Michael J. Pint
Commissioner of Banks

Department of Commerce Insurance Division

Notice of Meeting

Minnesota Comprehensive Health Association Finance Committee

Thursday, May 29, 1980

1:30 p.m.

Produce Bank Building

100 North 7 Street—Suite 400

Minneapolis, Minnesota

Energy Agency Certificate of Need Activity

Notice of Continuation of Public Hearings on the Certificate of Need Application of Northern States Power Company to Increase the Storage Capacity of the Spent Fuel Pool at Prairie Island Nuclear Generating Facility

Notice is hereby given that the Minnesota Energy Agency will conduct further public hearings to consider the Certificate of Need application of Northern States Power Company to increase the storage capacity of the spent fuel pool at the Prairie Island nuclear generating plant.

Public hearings will continue at 10:00 a.m. on June 16, 1980, in the Red Wing Public Library, 225 Broadway, Red Wing, Minnesota. The hearing will continue in Red Wing on June 17, 18 and 19, whereupon it will recess and continue in Saint Paul on June 23, at the Federal Courthouse, Room 584, 316 North Robert Street. The hearings in St. Paul will commence at 9:00 a.m. at the designated location and shall continue in St. Paul until its conclusion.

Additional public testimony will be received by the Hearing Examiner, Myron S. Greenberg (Telephone Number: (612) 296-8110) during the afternoon sessions of the hearing on Tuesday, June 17 and June 24, in Red Wing and St. Paul, respectively. On these days the afternoon portion of the hearing will commence at

1:30 p.m. and recess no later than 5:00 p.m. Evening sessions, devoted to public testimony only, will also be held on June 17 and 24; they will commence at 7:00 p.m. In the event that no members of the public wish to testify during the afternoon sessions, the formal evidentiary hearings will continue.

Energy Agency Conservation Division

Notice of Intent to Solicit Outside Opinion Concerning Rules for Energy Efficiency Standards of Residential Rental Property

Notice is hereby given that the Minnesota Energy Agency, pursuant to Minn. Stat. § 116H.129, subd. 1 and 3 (Supp. 1979), has begun consideration of proposed rules relating to compliance and self certification procedures for the following proposed standards, which apply to residential rental properties constructed prior to January 1, 1976:

1. Install weatherstripping between exterior operable window sash and frames and between exterior doors and frames.

Exception: Weatherstripping not required on storm doors or storm windows.

2. Caulk, gasket or otherwise seal accessible exterior joints between foundation and rim joist, around window and door frames, between wall and roof, between wall panels, at penetrations for utility services through walls, floors, and roofs and all other openings in the exterior envelope.

3. Install positive shut-offs for all fireplaces or fireplace stoves.

4. Install insulation in attics to achieve a minimum total "R" value of 19.

5. Install insulation in all accessible rim joist areas to achieve a minimum total "R" value of 11.

6. Install insulation in walls and/or floors enclosing conditioned spaces to achieve a minimum total "R" value of 11. Accessible walls shall include above-grade foundation walls of basements, cellars or crawl spaces.

7. Install storm windows and/or thermal windows on all single glazed exterior window units enclosing conditioned space.

8. Install storm doors and/or thermal doors on all exterior door openings into conditioned spaces unless a single door, enclosed porch, vestibule, or other appurtenance provides a double door effect or provides an "R" value of 2 or more.

9. Install clock thermostat in tenant dwelling unit where such thermostat controls the tenants' heating or cooling systems, and where tenant directly purchases fuel.

10. Install flow restrictors on all shower heads.

Information or opinion concerning the subject matter of the proposed rules is hereby requested from all interested individuals or groups. The purpose of the rules is to insure that energy is conserved, the comfort level of the tenant is increased, and that owners and tenants save money from reduced energy consumption.

All interested or affected persons or groups may submit information on this subject. Statements of information and comment may be made orally or in writing. Written comments are preferred. Written or oral information and comment should be addressed to:

Vic Spadaccini, Jr.
State Energy Compliance Coordinator
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Written statements will be made part of the public hearing record.

Department of Public Service Public Service Commission

Notice of Change of Location and Date of Public Meeting, and Change of Due Date of Comments Concerning Implementation of FERC Cogeneration and Small Power Production Rules

On May 5, 1980, the Minnesota Public Service Commission published a Notice of Intent to Solicit Outside Opinion Concerning Implementation of FERC Cogeneration and Small Power Production Rules (4 S.R. 1743).

Since May 5, the Federal Energy Regulatory Commission (FERC) has rescheduled its public meeting in Minnesota. The meeting is now scheduled to convene at 1:30 p.m. on June 25, 1980, at the Rodeway Inn-Airport, 1321 E. 78th Street, Bloomington, Minnesota. To provide opportunity for commenters to incorporate information from the public meeting, the comment period has been extended to July 3, 1980.

All interested or affected parties or groups are invited to submit written statements or comments by July 3, 1980, addressed to:

Mary L. Harty, Secretary
Minnesota Public Service Commission
7th Floor, American Center Building
Kellogg and Robert Street
St. Paul, Minnesota 55101

Written material received by July 3, 1980, will become part of the record of any rules hearing held on this subject.

May 19, 1980

Mary L. Harty
Commission Executive Secretary

Department of Public Service Public Service Commission

Notice of Intent to Solicit Outside Opinion Concerning the Adoption of the Automatic Adjustment Clauses Standard Set Forth in Section 115(e) of the Public Utility Regulatory Policies Act of 1978 (PURPA)

Notice is hereby given that the Public Utility Regulatory Policies Act of 1978 (PURPA) Sections 113 and 115(e) require state public utility regulatory authorities, including the Minnesota Public Service Commission, to consider a certain standard concerning automatic adjustment clauses for electric utilities, and to adopt such a standard if appropriate and consistent with state law. Therefore, the Commission is hereby soliciting outside opinion on the appropriateness of the PURPA standard, and the adequacy of PSC 390, 391, 392, 394, and 395.

PURPA Section 113(b) requires the commission to consider this standard: No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of Section 115(e).

PURPA Section 115(e) states the following:

115(e) Automatic Adjustment Clauses.—(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the state

regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

(3) As used in this subsection and section 113(b), the term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mary L. Harty
Executive Secretary
Minnesota Public Service Commission
7th Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

All statements of information and comment must be received by July 1, 1980. Any written material received by this date will become part of the record of any rules hearing held on this subject.

May 19, 1980

Mary L. Harty
Executive Secretary

Notice of Intent to Solicit Outside Opinion Concerning Issues Related to the Sale and/or Deregulation of Telephone Company-Supplied Terminal Equipment

The Public Service Commission is in the process of soliciting participation in a Telephone Terminal Equipment Sale and Deregulation Task Force which may result in the promulgation of rules.

As a result of various Federal Communication Commission actions relating to the telephone terminal equipment market, the Public Service Commission is interested in analyzing at least the following issues:

1. sales versus leasing options;
2. accounting versus corporate structural changes;
3. differences in appropriate treatment (if any) by size of the telephone company;

4. depreciation and amortization policies and methods;
5. length and nature of transition periods;
6. cost-recovery pricing; and
7. economic implications for rate structures.

As part of these broader issues, the Commission will seek answers to the following questions:

1. the total impacted dollars by account in all Minnesota jurisdictional rate bases;
2. the size of the related depreciation reserves;
3. average and remaining lives currently being utilized by account and sub-account on a statewide basis;
4. the potential for in-place and competitive sales and leases; and
5. the relationship between investment dollars in these accounts and the allotted settlement revenues, taking into account the applicable separations criteria.

Interested or affected groups may submit information on this subject. Written or oral comment and information or questions concerning scheduling of task force meetings should be addressed to:

Mary L. Harty, Executive Secretary
Minnesota Public Service Commission
790 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

May 15, 1980

Mary L. Harty
Executive Secretary

Water Resources Board

Notice of Public Hearing Concerning the Petition to Redistribute the Managers of Valley Branch Watershed District between Ramsey County and Washington County

The Minnesota Water Resources Board announces it will hold a public hearing in the Washington County Human Services Building, 7066 Stillwater Boulevard North, Oakdale, Minnesota 55119, beginning at 1:30 p.m., Central Daylight Time, on Tuesday, June 3, 1980 on a petition to redistribute the managers of the Valley Branch Watershed District between Ramsey County and Washington County.

The board's Notice of Hearing is published in the *Ramsey County Review* and the *Washington County Review* on May 14 and 21, 1980; and in the *Stillwater Gazette* on May 15 and 22, 1980.

Copies of the board's Notice of Hearing are available from the board's office at 555 Wabasha Street, St. Paul, Minnesota 55102 (612/296-2840).

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Law Library
117 University
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